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1 UNITED STATES DISTRICT COURT
1 SOUTHERN DISTRICT OF NEW YORK

2 -----x

2 In re WTC DISASTER SITE
3 LITIGATION

21 MC 100, 21 MC 102, 103

3 -----x

New York, N.Y.
October 5, 2010
2:50 p.m.

6 Before:

7 HON. ALVIN K. HELLERSTEIN,

District Judge

9 APPEARANCES

10 WORBY GRONER EDELMAN & NAPOLI BERN

10 Attorneys for Plaintiffs

11 BY: PAUL NAPOLI

11 MARC BERN

12 WILLIAM H. GRONER

12 -and-

13 SULLIVAN PAPAIN BLOCK McGRATH & CANNAVO, P.C.

13 BY: NICHOLAS PAPAIN

14 ANDREW J. CARBOY

15 GREGORY CANNATA

15 ROBERT GROCHOW

16 Attorneys for Liaison Plaintiffs (21 MC 102)

17 MARION S. MISHKIN

17 Attorneys for Nonrespiratory Plaintiffs

18 PATTON BOGGS LLP

19 Attorneys for Defendant City of New York and Contractors

19 BY: JOSEPH E. HOPKINS

20 JAMES E. TYRRELL

21 SCHIFF HARDIN LLP

21 Attorneys for Defendant Port Authority of NY&NJ

22 BY: ROBERT RILEY

22 BETH JACOB

23 PAUL SCRUDATO

24 McDERMOTT WILL & EMERY LLP

24 Attorneys for Defendant WTC Captive Ins. Co.

25 BY: MARGARET H. WARNER

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1 Ms. Warner.

2 Item 4 reads: The status of plaintiffs who were not
3 listed as eligible for recovery under the master settlement
4 agreement because they participated in the victim compensation
5 fund, their stated desire to participate in the master
6 settlement, and the need for a judicial determination of these
7 plaintiffs' eligibility.

8 Mr. Napoli, do you want to report?

9 MR. NAPOLI: Yes, your Honor.

10 Our office is in the process, and we asked for the
11 consultation of the Court, of finding special counsel to work
12 on and talk with these clients to work on what is going to
13 happen with these cases, whether it be by motion practice or
14 some other means of resolution, and we would ask that we report
15 back to you on finding special counsel.

16 THE COURT: I'm anxious to help you, Mr. Napoli. I
17 welcome your report. I received letters from these people,
18 many of them, who complained that they entered the Victim
19 Compensation Fund thinking that their injuries were slight.
20 They say their injuries are now graver. They signed a release
21 in a very broad form giving up all rights to litigate, and they
22 would like to escape the terms of their release. One way or
23 another, we need to have a resolution of this issue.

24 The master settlement process agreement defines
25 eligible plaintiffs in such a way as to exclude these people,

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1 but they need to have resolution of their status in the
2 litigation and whether the defense of release is valid or not
3 and to what extent. So I'm very happy that you are exploring
4 the availability of the special counsel to represent this
5 group, and we'll see how this goes. So if there's no one else
6 on item No. 4, we're past that.

7 Item No. 5 reads as follows: Regulating compensation
8 of counsel other than Worby Groner and Sullivan Papain. There
9 are 25 such firms representing 350 plaintiffs and in addition,
10 there are two and maybe three pro se plaintiffs. We need to
11 determine the claims of liaison counsel, Mr. Napoli.

12 And Mr. Papain also?

13 MR. PAPAIN: Yes.

14 THE COURT: For compensation from these other firms,
15 and for their clients, to recognize benefits conferred by the
16 activities of liaison counsel.

17 MR. PAPAIN: Your Honor, I'm sorry. I apologize for
18 interrupting, but I misunderstood the question.

19 We have waived and do not seek any compensation from
20 other firms.

21 THE COURT: But Mr. Napoli does make that claim, does
22 seek it because he contends that his work for all as liaison
23 counsel needs to be compensated and it would be unfair if only
24 his clients had the obligation to compensate him because his
25 work was for the common benefit of all.

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